

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LESLIE KELLY,

Plaintiff,

v.

MARTY SAPKO, ET AL.,

Defendants.

Civil Action No. 03-368E

Judge McLaughlin
Magistrate Judge Baxter

(Electronic Filing)

**DEFENDANTS' MOTION TO DISMISS, OR IN THE ALTERNATIVE
MOTION FOR SUMMARY JUDGEMENT**

AND NOW, comes Defendants, John LaManna, Deborah Forsyth, Marty Sapko and Stephen Housler and the United States of America, by their attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Michael C. Colville, Assistant United States Attorney for said district, and, pursuant to Rules 12(b) and 56 of the Federal Rules of Civil Procedure, respectfully moves the Court to issue an Order dismissing the Complaint of Plaintiff Leslie Kelly, with prejudice.

A Brief in support of this Motion, as well as the Exhibits, are being filed simultaneously herewith and the contents therein incorporated by reference.

WHEREFORE, Defendant respectfully requests that the Court issue an Order dismissing the Complaint of Plaintiff Leslie Kelly, with prejudice and with costs being assessed against Plaintiff.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

/s/ Michael C. Colville
MICHAEL C. COLVILLE
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **DEFENDANTS' MOTION TO DISMISS, OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT** was served, by either electronic means or by postage paid U.S. Mail, to and upon the following:

Richard A. Lanzillo, Esquire
Knox McLaughlin Gornall & Sennett, P.C.
120 West Tenth Street
Erie, PA 16501-1461

/s/ Michael C. Colville
MICHAEL C. COLVILLE
Assistant U.S. Attorney

Dated: February 16, 2006